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PATENT

In The United States Patent And Trademark Office

In re:	Terrell B. Jones et al.	Confirmation No.: 9665
Appl. No.:	09/141,264	Group Art Unit: 3625
Filed:	August 27, 1998	Examiner: Yogesh C. Garg
For:	GOAL ORIENTED TRAVEL PLANNING SYSTEM	

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 1.192)

1. Transmitted herewith, in **triplicate**, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on May 12, 2004.

2. ☐ Applicant claims small entity status.

3. Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is:

   ☐ small entity $165.00
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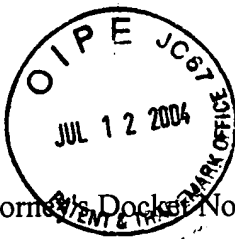Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APPEAL BRIEF UNDER 37 CFR § 1.192

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed May 12, 2004.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Travelocity.com LP, the assignee of the above-referenced patent application. Travelocity.com LP is currently a wholly-owned subsidiary of Sabre Inc.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

Claims 1-58 are pending, all of which stand rejected.

4. **Status of Amendments.**
There are no unentered amendments in this application.

5. ***Summary of the Invention.***

The present invention relates to a data processing system, computer-readable medium and method for processing travel requests using a travel database. The system of one embodiment includes a memory including program instructions, and a processor operating responsive to the

program instructions. In this regard, the processor operates responsive to the instructions to receive a travel goal specifying a destination location and an appointment time for arrival at the destination location. Pat. App. page 5, lines 13-15; and page 8, lines 15-17. For example, the method may include receiving a travel goal specifying that the user wishes to arrive at 123 Main St., New York at three o'clock in the afternoon and that he/she is leaving from Washington, D.C. *Id.* at page 8, lines 19-21. The processor also operates to access the travel database to locate travel information corresponding to the destination location and the appointment time. Then, the processor determines an arrival time at an intermediate point (e.g., LaGuardia Airport in New York) within a vicinity of the destination location using the located travel information that allows time for traveling between the intermediate point and the destination location to ensure arrival at the destination location (e.g., 123 Main St., New York) by the appointment time (e.g., three o'clock in the afternoon). *See id.* at page 10, line 17 – page 11, line 8.

In addition, the processor also operates to determine at least one mode of transportation between the intermediate point and the destination location based upon the travel goal. *Id.* The processor reviews transportation such as taxis, buses, trains, etc., and determines which of these forms of transportation will ensure arrival at the destination by the appointed time. For example, if the user's flight lands at 1:45 pm, the processor determines which forms of transportation will have a transport time that will allow the user to arrive by 3:00 pm at the destination. The processor may determine that a taxi or train is acceptable, but that the bus is not.

6.   *Issues.*

The issues presented for appeal are (a) whether Claims 1-57 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,948,040 to DeLorme et al., in view of Official Notice taken by the Examiner in the final Official Action; and (b) whether Claim 58 is properly rejected under 35 U.S.C. § 103(a) as being unpatentable over the Delorme patent, in view of a press release entitled: *ICL Nets Contract for Birmingham Transit Info System* (hereinafter referred to as the "Press Release").

7.   *Grouping of Claims.*

With respect to Claims 1-57 rejected under 35 U.S.C. § 103(a) based on DeLorme and Official Notice, Claims 1-57 stand or fall together; and with respect to Claim 58 rejected

under 35 U.S.C. § 103(a) based on DeLorme and the Press Release, Claim 58 stands or falls alone.

8.   ***Argument.***

A.   Whether Claims 1-57 are properly rejected under 35 U.S.C. § 103(a) based on DeLorme and Official Notice

In the present application, Claims 1-57 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme in view of Official Notice taken by the Examiner. As explained in response to the first Official Action, the DeLorme patent discloses a travel reservation information and planning system and method. According to the method, users engage in a planning process, whereby the users plan, revise or edit travel plans. The users can also preview alternate routes between a set travel origin and travel destination, select points of interest, and compare times and costs of transportation options such that the users can achieve a final travel plan. The DeLorme system allows a user to construct a highly selective travel route between the travel origin and travel destination, with user-selected waypoints of interest along the route. In this regard, the DeLorme system provides for changing the travel route including the transportation routes, waypoints, and objects or points of interest. Col. 7, lines 25-30.

In contrast to the claimed invention of independent Claims 1, 20 and 39, and as conceded by the final Official Action, the DeLorme patent does not teach or suggest determining at least one mode of transportation between the intermediate point and the destination location based upon the travel goal. However, the final Official Action took Official Notice that manually determining "one mode of transportation between the intermediate point and the destination location based upon the travel goal is old and well established in the field of traveling." The final Official Action continued by explaining that a traveler who has to travel to New York from Washington, D.C. would inherently determines which secondary mode of transportation (e.g., taxi, private pick-up, metro, metro bus, walking, rental car, etc.) would suit him based upon the cost and time available to him to reach a destination point in the city at an appointment time.

According to MPEP § 2144.03(A.), Official Notice can only be taken of facts that are "capable of instant and unquestionable demonstration as being well-known." Citing *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970), the MPEP continues by explaining that "the notice of facts beyond the record which maybe taken by the examiner must be 'capable of such instant and

unquestionable demonstration as to defy dispute.'"

Applicants again respectfully submit that the final Official Action did not, in fact, take Official Notice of facts capable of instant and unquestionable demonstration as being well known so as to defy dispute. In this regard, with respect to manually determining a mode of transportation, in various instances a traveler has never visited the intermediate location, or otherwise has no prior knowledge regarding the intermediate location. Likewise, in various other instances, a traveler has never visited the destination location, or otherwise has no prior knowledge regarding the destination location. In both such instances, the traveler will likely be incapable of determining a mode of transportation between the intermediate location and destination location based upon a travel goal, as recited by the claimed invention, and contrary to the Official Notice taken by the Examiner.

The final Official Action has taken Official Notice that a traveler would inherently determine a secondary mode of transportation based upon the cost and time available to the traveler to reach a destination point in the city at an appointment time. Applicants respectfully submit, however, that it is equally plausible that the same traveler, in at least two alternative instances, would likely be incapable of determining a mode of transportation between the intermediate and destination locations. As explained above, traveler proceeding from an intermediate location to a destination location may not be capable of determining a mode of transportation between the intermediate location and destination location based upon a travel goal. For example, a traveler who has either never been to New York City or has never flown in to LaGuardia Airport may not know the difference in time between taking a cab or the Metro to 123 Main St. Therefore, Applicants respectfully submit that the assertion that the traveler would inherently determine a mode of transportation between the intermediate location and destination location based upon a travel goal is not capable of instant and unquestionable demonstration as being well known so as to defy dispute, as required to take Official Notice of facts not in the record.

In an Advisory Action issued after the final Official Action, the Examiner provided two issued patents, U.S. Patent No. 6,163,748 to Guenther and U.S. Patent No. 6,085,976 to Sehr, as evidence and to substantiate the Official Notice taken by the Examiner. Applicants disagree with this assertion.

The Guenther patent discloses a method for controlling transport and travel operations

that permits the use of all relevant information for the connection possibilities between a starting point and a destination to establish an optimal route plan. In this regard, the Guenther patent merely discloses a route planning method that utilizes traffic codes of a destination to provide a route to the destination based upon the planned purpose of the trip to the destination. The Guenther patent does not teach or suggest <u>determining at least one mode of transportation</u> between an intermediate point and a destination location based upon a travel goal including an appointment time for arrival at the destination location, as recited in independent Claims 1, 20 and 39. In fact, the Guenther patent does not disclose determining at least one mode of transportation between any intermediate point and a destination, much less based upon a travel goal.

The Sehr patent provides a travel system and methods utilizing multi-application passenger cards. As disclosed and cited in the Advisory Action, the Sehr system includes a travel map that allows a user to explore various travel itineraries, including any necessary connection information such as the type of carriers and the time/location of a transfer. However, the Sehr patent does not disclose that the system can <u>determine at least one mode of transportation</u> between an intermediate point and a destination location based upon a travel goal including an appointment time for arrival at the destination location, as recited in independent Claims 1, 20 and 39. In fact, as the Sehr patent discloses that the system can include a travel center installed at an airport, railroad station or at a travel agency, Applicant respectfully submits that the Sehr patent appears to teach away from determining at least one mode of transportation since the location of the travel center would likely define the mode of transportation.

Applicants therefore respectfully submit that while both the Guenther patent and the Sehr patent disclose travel-related systems and methods, neither the Guenther patent nor the Sehr patent supports the Official Notice taken by the Examiner. That is, neither the Guenther patent nor the Sehr patent supports the proposition that it is old and well established that a traveler would inherently determine a secondary mode of transportation based upon the cost and time available to the traveler to reach a destination point in the city at an appointment time. Both the Guentehr and Sehr patents disclose systems and methods that are operable for a number of different modes of transportation (e.g., airplanes, railroads, ships, automobiles, subways, buses, rental cards, etc.). Neither patent, however, discloses or suggests determining a secondary mode of transportation from an intermediate point to a destination location based upon the time

available to the traveler to reach the destination location by an appointment time, in a manner similar to that recited by independent Claims 1, 20 and 39 of the present invention. In fact, neither patent discloses or suggests determining a secondary mode of transportation from an intermediate point to a destination location, much less based upon the time available to the traveler to reach the destination location by an appointment time.

Applicants therefore respectfully submit that the claimed invention of independent Claims 1, 20 and 39 is patentable over the cited references, taken individually or in combination. And as dependent Claims 2-19, 21-38 and 40-57 each depend, directly or indirectly, from independent Claims 1, 20 and 39, respectively, Applicants respectfully submit that dependent Claims 2-19, 21-38 and 40-57 are also patentable over the cited references for at least the same reasons given above with respect to independent Claims 1, 20 and 39.

B.   Whether Claim 58 is properly rejected under 35 U.S.C. § 103(a) based on DeLorme and the Press Release

Also in the present application, Claim 58 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over DeLorme in view of the Press Release. As previously explained, the method of Claim 58 includes the steps of receiving a travel goal including a destination location and an appointment time, and recommending a plurality of travel options and recommending a plurality of secondary modes of transportation based on the travel goal to ensure arrival at the destination location by the appointment time. The method also includes invoking a transportation decision system to select one of the plurality of travel options and one of the secondary modes of ground transportation based on the recommended travel options and the recommended secondary ground transportation. A determination is made whether an overnight stay is required, and when it is determined that an overnight stay is required, a hotel decision support system is invoked to select a hotel. The method also includes invoking an activity and restaurant decision support system to select activities and restaurants in a vicinity of the destination location.

As explained above with respect to independent Claims 1, 20 and 39, the DeLorme patent does not teach or suggest determining at least one mode of transportation between the intermediate point and the destination location based upon a travel goal. For the same reasons as above, and as conceded by the Official Action, the DeLorme patent also does not teach or

suggest recommending a plurality of secondary modes of transportation based on the travel goal, as recited by independent Claim 58. However, the final Official Action alleges that the Press Release discloses these features.

The Press Release discloses a real-time travel information service being developed for the Birmingham transit network. As disclosed, the system will be capable of providing real-time bus scheduling information, and will also recommend alternative transportation modes and routes to passengers. In addition, the system will also provide information regarding bus positions along specified routes, including expected arrival times. Further, the system will provide information about expected delays, special events and fares.

In contrast to independent Claim 58, the Press Release does not teach or suggest recommending a plurality of secondary modes of transportation based on a travel goal to ensure arrival at a destination location by an appointment time. The final Official Action alleges that the Press Release discloses recommending alternative transportation modes to passengers to provide the best information on expected delays and arrival times of buses to enable passengers to calculate transit routes by alternative modes of transportation to their selected destinations. The final Official Action continues by alleging that it would have been obvious to modify the DeLorme system to include the teachings of the Press Release to enable a user to calculate a transit route and select one based upon the user's preference, budget and time available to reach the user's destination.

Applicants respectfully submit, however, that the Press Release does not disclose on what basis the travel information service will make its recommendations for alternative modes of transportation. Based upon the remainder of the Press Release, it could be suggested that the travel information service recommends alternative modes of transportation based upon the information provided by the system. Even in such an instance, however, the Press Release does not teach or suggest recommending a plurality of second modes of transportation based on a travel goal to ensure arrival at a destination location by an appointment time, as recited by independent Claim 58, particularly since such a basis would require the system to have knowledge of each traveler's travel goal.

It could even be suggested, and appears to be alleged by the final Official Action, that the system disclosed by the Press Release allows the user to determine a secondary mode of transportation based on a travel goal to ensure arrival at a destination location by an appointment

time. However, even in this instance, the system disclosed by the Press Release does not recommend secondary modes of transportation based on the travel goal since it's the user, and not the system, that determines the secondary mode of transportation based on a travel goal. Moreover, as explained above with respect to independent Claims 1, 20 and 39, in various instances when a traveler has never visited the destination location, or otherwise has no prior knowledge regarding the destination location, the traveler will likely be incapable of determining a mode of transportation between the intermediate location and destination location based upon a travel goal. Thus, Applicants respectfully submit that, even if the DeLorme system could be modified in accordance with the teachings of the Press Release, the combination of the DeLorme and Press Release systems do not teach or suggest a system capable of recommending a plurality of second modes of transportation based on a travel goal to ensure arrival at a destination location by an appointment time, as recited by independent Claim 58.

Applicants therefore respectfully submit that the claimed invention of independent Claim 58 is patentably distinct from the DeLorme patent and the Press Release, taken individually or in combination.

CONCLUSION

For at least the foregoing reasons, Applicant respectfully requests that the rejections be reversed.
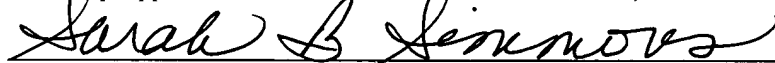
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CLAIMS ON APPEAL

1.   (Previously Presented) A data processing system for processing travel requests using a travel database, comprising:

a memory including program instructions; and

a processor operating responsive to the program instructions to:

receive a travel goal specifying a destination location and an appointment time for arrival at the destination location;

access the travel database to locate travel information corresponding to the destination location and the appointment time; determine an arrival time at an intermediate point within a vicinity of the destination location using the located travel information that allows time for traveling between the intermediate point and the destination location to ensure arrival at the destination location by the appointment time; and

determine at least one mode of transportation between the intermediate point and the destination location based upon the travel goal.

2.   (Original) The system of claim 1 wherein a plurality of travel stations are within the vicinity of the destination location, and wherein the processor further operates responsive to the program instructions to:

select one of the plurality of travel stations; and

determine available modes of transportation between the selected travel station and the destination location.

3.   (Original) The system of claim 2 wherein the processor further operates responsive to the program instructions to:

display the available modes of transportation; and

receive a selection of one of the available modes of transportation.

4.   (Original) The system of claim 1 wherein the travel information includes a plurality of travel options available at the travel station, and wherein the processor further operates responsive to the program instructions to:

select one of the plurality of travel options that arrives at the travel station at the time of arrival sufficient to ensure arrival at the destination location by the appointment time.

5.   (Previously Presented) The system according to claim 4 wherein the processor further operates responsive to the program instructions to:

display data listing the plurality of travel options; and

receive an indication of a selected travel conveyance.

6.   (Previously Presented) The system according to claim 4 wherein the processor further operates responsive to the program instructions to:

display data listing the plurality of travel options; and

receive an indication of a selected travel flight.

7.   (Original) The system according to claim 4, further comprising instructions to:

maintain a profile of travel preferences, wherein the travel option selection is based on the travel preferences.

8.   (Original) The system according to claim 1 wherein the processor further operates responsive to the program instructions to:

receive a travel return date; and

display a list of return travel options from the travel station on the travel return date.

9.   (Original) The system according to claim 1 wherein the processor further operates responsive to the program instructions to:

determine whether an overnight stay is required; and

display a list of hotels for selection.

10.   (Original) The system according to claim 9 wherein the processor further operates responsive to the program instructions to:

receive a selection of one of the hotels; and

reserve a room at the selected hotel.

11.   (Original) The system of claim 1 wherein the processor further operates responsive to the program instructions to locate restaurants in a vicinity of the destination site.

12.   (Original) The system according to claim 11 wherein the processor further operates responsive to the program instructions to:
        search a restaurant database for restaurants in the vicinity of the destination location.

13.   (Original) The system of claim 11, wherein the processor further operates responsive to the program instructions to locate restaurants includes an instruction to:
        display the determined restaurants.

14.   (Original) The system according to claim 1 wherein the processor further operates responsive to the program instructions to locate activities in a vicinity of the destination location.

15.   (Original) The system of claim 14 wherein the processor further operates responsive to the program instructions to locate activities includes an instruction to:
        search an activities database for the activities in the vicinity of the destination location.

16.   (Original) The system of claim 14 wherein the processor further operates responsive to the program instructions to locate activities includes an instruction to:
        display a list of the determined activities.

17.   (Original) The system of claim 1 wherein the processor further operates responsive to the program instructions to provide travel information in accordance with the determined arrival time.

18.   (Original) The system of claim 17 wherein the travel information includes geographic data for travel between the travel station and the destination.

19.   (Original) The system of claim 1 wherein the travel goal may include a plurality of legs of travel each leg of travel including a different destination location and appointment time for arrival at the destination location.

20.   (Previously Presented) A computer-readable medium containing instructions for processing travel requests using a travel database by:

receiving a travel goal specifying a destination location and an appointment time for arrival at the destination location;

accessing the travel database to locate travel information corresponding to the destination location and the appointment time;

determining an arrival time at an intermediate point within a vicinity of the destination location using the located travel information that allows time for traveling between the intermediate point and the destination location to ensure arrival at the destination location by the appointment time; and

determining at least one mode of transportation between the intermediate point and the destination location based upon the travel goal.

21.   (Original) The medium of claim 20 wherein a plurality of travel stations are within a vicinity of the destination location, and wherein the instruction for determining includes instructions to:

select one of the plurality of travel stations; and

determine available modes of transportation between the selected travel station and the destination location.

22.   (Original) The medium of claim 21 wherein the instruction for determining available modes of transportation further includes instructions to:

display the available modes of transportation; and

receive a selection of one of the available modes of transportation.

23.   (Original) The medium of claim 20 wherein a plurality of travel options are available at a travel station, and wherein the instruction for determining includes instructions to:

select one of the plurality of travel options that arrives at the travel station at the time of arrival sufficient to ensure arrival at the destination location by the appointment time.

24.　(Original) The medium according to claim 23 wherein the instruction for selecting further includes instructions to:
　　display data listing the plurality of travel options; and
　　receive an indication of a selected travel conveyance.

25.　(Original) The medium according to claim 23 wherein the instruction for selecting further includes instructions to:
　　display data listing the plurality of travel options; and
　　receive an indication of a selected travel flight.

26.　(Original) The medium according to claim 23 further including instructions to:
　　maintain a profile of travel preferences, wherein the travel option selection is based on the travel preferences.

27.　(Original) The medium according to claim 20 further including instructions to:
　　receive a travel return date; and
　　display a list of return travel options from the travel station on the travel return date.

28.　(Original) The medium according to claim 20 further including instructions to:
　　determine whether an overnight stay is required; and
　　display a list of hotels for selection.

29.　(Original) The medium according to claim 28 further including instructions to:
　　receive a selection of one of the hotels; and
　　reserve a room at the selected hotel.

30.　(Original) The medium of claim 20 further including an instruction to locate restaurants in a vicinity of the destination site.

31.   (Original) The medium according to claim 30 wherein the instruction to locate restaurants includes an instruction to:

search a restaurant database for restaurants in the vicinity of the destination location.

32.   (Original) The medium of claim 30, wherein the instruction to locate restaurants includes an instruction to:

display the determined restaurants.

33   (Original) The medium according to claim 20 further including an instruction to locate activities in a vicinity of the destination location.

34.   (Original) The medium of claim 33 wherein the instruction to locate activities includes an instruction to:

search an activities database for the activities in the vicinity of the destination location.

35.   (Original) The medium of claim 33 wherein the instruction to locate activities includes an instruction to:

display a list of the determined activities.

36.   (Original) The medium of claim 20 further including an instruction to provide travel information in accordance with the determined arrival time.

37.   (Original) The medium of claim 36 wherein the travel information includes geographic data for travel between the travel station and the destination.

38.   (Original) The medium of claim 21 wherein the travel goal may include a plurality of legs of travel each leg of travel including a different destination location and appointment time for arrival at the destination location.

39.   (Previously Presented) A method for processing travel requests using a travel database comprising the steps of:

receiving a travel goal specifying a destination location and an appointment time for arrival at the destination location;

accessing the travel database to locate travel information corresponding to the destination location and the appointment time; and

determining an arrival time at an intermediate point within a vicinity of the destination location using the located travel information that allows time for traveling between the intermediate point and the destination location to ensure arrival at the destination location by the appointment time; and

determining at least one mode of transportation between the intermediate point and the destination location based upon the travel goal.

40.   (Original) The method of claim 39 wherein a plurality of travel stations are within a vicinity of the destination location, and wherein the step for determining includes steps to:

select one of the plurality of travel stations; and

determine available modes of transportation between the selected travel station and the destination location.

41.   (Original) The method of claim 40 wherein the step for determining available modes of transportation further includes steps to:

display the available modes of transportation; and

receive a selection of one of the available modes of transportation.

42.   (Original) The method of claim 39 wherein a plurality of travel options are available at a travel station, and wherein the step for determining includes the step of:

selecting one of the plurality of travel options that arrives at the travel station at the time of arrival sufficient to ensure arrival at the destination location by the appointment time.

43.   (Original) The method according to claim 42 wherein the step for selecting
further includes steps to:

     display data listing the plurality of travel options; and

     receive an indication of a selected travel conveyance.

44.   (Original) The method according to claim 42 wherein the step for selecting
further includes steps to:

     display data listing the plurality of travel options; and

     receive an indication of a selected travel flight.

45.   (Original) The method according to claim 42 further comprising the step of:
maintaining a profile of travel preferences, wherein the travel option selection is based on the
travel preferences.

46.   (Original) The method according to claim 39 further including steps to:

     receive a travel return date; and

     display a list of return travel options from the travel station on the travel return date.

47.   (Original) The method according to claim 39 further including steps to:

     determine whether an overnight stay is required; and

     display a list of hotels for selection.

48.   (Original) The method according to claim 47 further including steps to:

     receive a selection of one of the hotels; and

     reserve a room at the selected hotel.

49.   (Original) The method of claim 39 further including the step of locating
restaurants in a vicinity of the destination site.

50.   (Original) The method according to claim 49 wherein the step of locating
restaurants includes the step of:

searching a restaurant database for restaurants in the vicinity of the destination location.

51.   (Original) The method of claim 49, wherein the step of locating restaurants includes the step of:

displaying the determined restaurants.

52.   (Original) The method according to claim 39 further including the step of locating activities in a vicinity of the destination location.

53.   (Original) The method of claim 52 wherein the step of locating activities includes the step of:

searching an activities database for the activities in the vicinity of the destination location.

54.   (Original) The method of claim 51 wherein the step of locating activities includes the step of:

displaying a list of the determined activities.

55.   (Original) The method of claim 39 further including a step of providing travel information in accordance with the determined arrival time.

56.   (Original) The method of claim 55 wherein the travel information includes geographic data for travel between the travel station and the destination.

57.   (Original) The method of claim 39 wherein the step of receiving a travel goal includes the steps of:

receiving a plurality of legs of travel each leg of travel including a different destination location and appointment time for arrival at the destination location.

58.   (Previously Presented) A method for processing travel requests including the steps of:

receiving a travel goal including a destination location and an appointment time;

recommending a plurality of travel options and recommending a plurality of secondary modes of transportation based on the travel goal to ensure arrival at the destination location by the appointment time;

invoking a transportation decision system to select one of the plurality of travel options and one of the secondary modes of ground transportation based on the recommended travel options and the recommended secondary ground transportation;

determining whether an overnight stay is required;

invoking a hotel decision support system to select a hotel when it is determined that an overnight stay is required; and

invoking an activity and restaurant decision support system to select activities and restaurants in a vicinity of the destination location.